

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

| | | |
|---------------------------------------|---|--------------------------|
| E3 BIOFUELS, LLC, |) | CASE NO. 8:11CV44 |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | ORDER |
| |) | |
| DILLING MECHANICAL |) | |
| CONTRACTORS, INC., PERENNIAL |) | |
| ENERGY, INC., and BIOTHANE, |) | |
| LLC, successor in interest and |) | |
| liability to BIOTHANE CORP., |) | |
| |) | |
| Defendants. |) | |

This matter is before the Court on the Motion to Dismiss Party (Filing No. 74) filed by Plaintiff E3 Biofuels, LLC. Under Federal Rule of Civil Procedure 41(a)(2) the Court finds the motion should be granted and the Plaintiff's claims against Defendant Dilling Mechanical Contractors, Inc. should be dismissed with prejudice. The parties will bear their own costs and attorney fees. Accordingly,

IT IS ORDERED:

1. Plaintiff's Motion to Dismiss (Filing No. 74) is granted;
2. Plaintiff's claims against Defendant Dilling Mechanical Contractors, Inc., are dismissed with prejudice, and the clerk is instructed to remove Defendant Dilling Mechanical Contractors, Inc. from the case caption; and
3. The affected parties will bear their own costs and attorney fees.

DATED this 28th day of July, 2011.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge